

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
PECOS DIVISION**

ATLAS TRENCHLESS, LLC,

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Plaintiff,

v.

CIVIL ACTION NO.: 4:19-cv-00017

**UNITED RENTALS (NORTH AMERICA),
INC.,**

Defendant,

COMPLAINT

Plaintiff Atlas Trenchless, LLC files this its Complaint against Defendant United Rentals (North America), Inc. and would respectfully show the Court as follows:

PARTIES

1. Plaintiff Atlas Trenchless, LLC ("Atlas") is a Minnesota limited liability company with its principal place of business located at 1351 Broadway Street W, Rockville, Minnesota. For purposes of diversity jurisdiction, Atlas, including each of its members, is a citizen of the State of Minnesota or the State of Arizona; it is not a citizen of the State of Texas, the State of Connecticut, or the State of Delaware. Specifically, Atlas's members are as follows:

a. Atlas Limited Partnership: a Minnesota limited partnership with its principal address located at 1351 Broadway St. W, Rockville, Minnesota. Atlas Limited Partnership's partners are as follows:

i. Atlas General Partner, LLC: a Minnesota limited liability company with its principal address located at 1351 Broadway St. W,

Rockville, Minnesota. Atlas General Partner, LLC's members are as follows:

1. James L. Schueller 2004 Revocable Trust: a trust established under the laws of Minnesota.
 2. Stearns Construction, Inc.: a Minnesota corporation with its principal address located at 1351 Broadway St. W, Rockville, Minnesota.
 - ii. James L. Schueller 2004 Revocable Trust: a trust established under the laws of Minnesota.
 - iii. Stearns Construction, Inc.: a Minnesota corporation with its principal address located at 1351 Broadway St. W, Rockville, Minnesota.
- b. SJL Partners, Inc.: an Arizona corporation with its principal address located at 512 West Filoree Lane, New River, Arizona.
2. Defendant United Rentals (North America), Inc. ("United") is a Delaware corporation with its principal place of business located at Five Greenwich Office Park, Greenwich, Connecticut. United can be served with process by serving its registered agent Corporation Service Company d/b/a CSC – Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701. For purposes of diversity jurisdiction, United is a citizen of the State of Delaware and the State of Connecticut; it is not a citizen of the State of Minnesota or the State of Arizona.

VENUE AND JURISDICTION

3. Venue is proper in this Court because all or a substantial part of the events or omissions giving rise to this lawsuit occurred in Reeves County, Texas. Tex. 28 U.S.C. § 1391(b)(2).

4. Jurisdiction over this subject matter is proper in this Court pursuant to 28 U.S.C. § 1332(a)(1). This is a civil dispute between citizens of different states. There is, and was at all relevant times, complete diversity of citizenship between the parties. The amount in controversy exceeds \$75,000.00 exclusive of interests and costs as Atlas seeks damages in the principal amount of \$155,545.72.

FACTUAL BACKGROUND

5. In September and October of 2018, Atlas and United entered into two separate Rental Agreements (the “Contracts”) pursuant to which United agreed to provide Atlas with rental equipment for a construction project known as Project # 41806 Salt Creek Crossing, Orla, TX 79770 (the “Project”) under certain terms and conditions. True and correct copies of the Contracts are attached hereto as **Exhibit 1**. Specifically, United was to provide an excavator and a generator (the “Equipment”) for Atlas to use as necessary until the Project’s completion.

6. Initially, United delivered the Equipment to the Project at which time Atlas began using the Equipment pursuant to the Contracts.

7. However, on or about November 8, 2018, United removed the Equipment from the Project without Atlas’s permission and placed a hold on Atlas’s account. Upon information and belief, this was done in retaliation to an ongoing dispute between Atlas’s sister company, S. J. Louis Construction of Texas, Ltd. (“SJL”) and United.

8. United's unexcused removal of the Equipment was a breach of the Contracts. Due to United's breach of the Contracts, the Project experienced delays damaging Atlas. Further, Atlas was forced to find alternative equipment, some of which Atlas was able to provide from its headquarters in Minnesota, but at an expensive fee to relocate. Atlas also was forced to engage third-parties to provide additional necessary equipment to complete the Project at a greater expense.

9. Due to United's breach of its obligations under the Contracts, Atlas has suffered damages in the amount of \$155,545.72, which Atlas is entitled to recover from United. Additionally, Atlas has also incurred, and will continue to incur, attorneys' fees, costs, and expenses as a result of United's breaches of the Contracts, which Atlas is likewise entitled to recover from United.

CAUSES OF ACTION

A. BREACH OF CONTRACT

10. The Contracts are valid, enforceable agreements between Atlas and United. Despite Atlas's compliance with its obligations under the Contracts, United has breached its obligations thereunder by the actions described hereinabove. As a result of these breaches of United's obligations under the Contracts, Atlas has been, and continues to be, damaged. Atlas is entitled to recover all damages resulting from United's breach of the Contracts that have been, or may be, sustained by Atlas.

B. ATTORNEYS' FEES

11. Atlas has made repeated demands to United to perform its obligations as required by the Contracts. As a result of United's refusal to comply with its obligations under the Contracts, Atlas has been compelled to engage the law firm of Clark Hill

Strasburger to bring this action against United for enforcement of the Contracts. Pursuant to Section 38.001 of the Texas Civil Practice and Remedies Code, Atlas is entitled to recover from United its reasonable attorneys' fees incurred in the prosecution of this arbitration.

C. COSTS AND INTEREST

12. Atlas is also entitled to recover from United all costs of arbitration plus pre-judgment and post-judgment interest at the maximum legal rate allowed by law.

CONDITIONS PRECEDENT

13. All conditions precedent to Atlas's right to assert the above causes of action have occurred, or have been satisfied, waived, or excused.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff Atlas Trenchless, LLC seeks judgment against Defendant United Rentals (North America), Inc., for all damages sustained in the past and that may be sustained in the future as a result of United's actions or inactions, along with attorneys' fees, costs, and expenses, pre-judgment and post-judgment interest at the highest rate allowed by law, and such other and further relief at law or in equity, general and special, to which it is entitled.

Dated this 15th day of May, 2019.

Respectfully submitted,

/s/ Christopher R. Ward

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